

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Greenbelt Division)**

**RUDOLPH J. GEIST, RJGLAW LLC, and  
RJGLAW LLC,**

Plaintiffs,

v.

**HISPANIC INFORMATION AND  
TELECOMMUNICATIONS NETWORK,  
INC.**

Defendant.

Case No. 8:16-cv-3630

**JURY TRIAL DEMANDED**

**OPPOSITION TO MOTION TO DISMISS**

Plaintiffs Rudolph J. Geist, RJGLaw LLC, and RJGLaw LLC, by and through their undersigned counsel, pursuant to Fed. R. Civ. P. 12(b) and Local Civil Rule 105-2(A), hereby oppose Defendant Hispanic Information and Telecommunications Network, Inc.’s (“HITN”) Motion to dismiss Plaintiffs’ Complaint (Doc. No. 20). Because Plaintiffs filed an Amended Complaint as a matter of right pursuant to Fed. R. Civ. P. 15(a), the Court should deny Defendant’s dispositive motion as moot.

**I. Plaintiffs’ Filing of Their First Amended Complaint Renders Defendant’s Dispositive Motion Moot**

Plaintiffs filed their Complaint in this action on November 4, 2016 (Doc. No. 1). In accordance with the Court’s Order granting a motion for extension of time to answer (Doc. No. 12), Defendant filed its motion to dismiss on December 30, 2016. On January 13, 2017, Plaintiffs filed their First Amended Complaint as a matter of right in accordance with Fed. R.

Civ. P. 15(a)(1)(B).<sup>1</sup> “As a general rule, ‘an amended pleading ordinarily supersedes the original and renders it of no legal effect.’” *Young v. City of Mt. Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (internal citations omitted); *First Tenn. Bank Nat’l Assoc. v. St. Paul Fire & Marine Ins. Co.*, 501 Fed. App’x 255, 258 n.2 (4th Cir. 2012) (original complaint “became a nullity upon the filing of the amended complaint”). As a result, the subsequent filing of an amended complaint renders a defendant’s motion to dismiss the original complaint moot, and the motion to dismiss should be denied as such. *See Uche v. Montgomery Hospice, Inc.*, No. 130cv000878-AW, 2013 WL 11331378, at \*1 (D. Md. June 19, 2013) (“Washington’s Motion to Dismiss the original Complaint is . . . moot, as Plaintiff timely filed amended pleadings pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure.”).

Accordingly, because Plaintiffs’ filing of their First Amended Complaint renders Defendant’s Motion to Dismiss moot, the Court should deny it as such.

## **II. CONCLUSION**

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendant’s Motion to Dismiss as moot.

Dated: January 13, 2017

Respectfully submitted,

**RUDOLPH J. GEIST**  
**RJGLAW LLC**  
**RJGLAW LLC**

By: /s/ Benjamin G. Chew

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<sup>1</sup> In accordance with Fed. R. Civ. P. 15(a), “[a] party may amend its pleading once as a matter of course within: . . . if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b) . . . whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(B). As Defendant has not yet answered the Complaint and filed its dispositive motion on December 30, 2016, Plaintiffs may amend their pleading once as a matter of course and have now done so.

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**CERTIFICATE OF SERVICE**

I certify that, on January 13, 2017, I filed via the Court's CM/ECF system the foregoing Opposition to Motion to Dismiss, and I understand that the system caused service of that Opposition on counsel for all parties to this action.

/s/ Benjamin G. Chew

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